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| 09/768,196 | 01/22/2001 | Ronald J. Lebel | 047711-0221 | 1919 |

7590 03/30/2009
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SUITE 3500
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LOS ANGELES, CA 90067-3021

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| EXAMINER |
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DESANTO, MATTHEW F

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| ART UNIT | PAPER NUMBER |
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03/30/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RONALD J. LEBEL,
VARAZ SHAHMIRIAN,
DANIEL H. VILLEGAS,
DAVID Y. CHOY,
PHILIP T. WEISS,
AND PAUL M. MEADOWS

Application No. 09/768,196
Technology Center 3763

Mailed: March 30, 2009

Before DELORES LOWE, *Review Team Paralegal*
LOWE, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on September 9, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

EXAMINER'S CONSIDERATION OF REPLY BRIEF

A Reply Brief was filed on June 13, 2008, in response to the Examiner's Answer mailed April 15, 2008.

Title 37, Code of Federal Regulations, §41.43 states:

(a)(1)... the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

The Communication mailed September 3, 2008, was an improper acknowledgment of the Reply Brief, as it constitutes a Supplemental Examiner's Answer as per MPEP§ 1208, part II. A Supplemental Examiner's Answers requires a Director or designees approval.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner:

1) vacate the Communication mailed September 3, 2008;

2) generate and mail either:

a) a revised Communication properly acknowledging to the Reply Brief dated April 15, 2008 in accordance with MPEP§ 1208, part II.;

OR

b) issue a Supplemental Examiner's Answer with the required signature (Technology Center Director or designee), if appropriate; and

3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

/DAL/

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